

85-2-319. Permit action in highly appropriated basins or subbasins. (1) With regard to a highly appropriated basin or subbasin, except as provided in [New Section - Compact], the legislature may by law preclude permit applications or the department may by rule reject permit applications or modify or condition permits already issued.

(2) A rule may be adopted under this section only upon a petition that is signed by at least 25% or 10, whichever is less, of the users of water in the source of supply within a basin or subbasin or upon petition of the department of environmental quality that alleges facts under subsection (2)(d). The petition must be in a form prescribed by the department and must allege facts showing that throughout or at certain times of the year or for certain beneficial uses:

- (a) there are no unappropriated waters in the source of supply;
- (b) the rights of prior appropriators will be adversely affected;
- (c) further uses will interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved; or
- (d) in the case of a petition filed by the department of environmental quality:
 - (i) the water quality of an appropriator will be adversely affected by the issuance of permits;
 - (ii) further use will not be substantially in accordance with the classification of water set for the source of supply pursuant to 75-5-301(1); or
 - (iii) the ability of a discharge permitholder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will be adversely affected by the issuance of permits.

(3) Within 60 days after submission of a petition, the department shall:

- (a) deny the petition in writing, stating its reasons for denial;
- (b) inform the petitioners that the department shall study the allegations further before denying or proceeding further with the petition; or
- (c) initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305.

(4) Title 2, chapter 4, parts 1 through 4, govern rulemaking proceedings conducted under this section, except that in addition to the notice requirements of those parts, the department notice of the rulemaking hearing must be published at least once in each week for 3 successive weeks, not less than 30 days before the date of the hearing, in a newspaper of general circulation in the county or counties in which the source is located. The department shall serve by mail a copy of the notice, not less than 30 days before the hearing, upon each person or public agency known from the examination of the records of the department to be a claimant, appropriator, or permitholder of water in the source.

(5) The department may adopt rules to implement the provisions of this section.